

March 5, 2013

Ms. P. Michele Ellison Chief, Enforcement Bureau Federal Communications Commission 445 12th Street, S.W., Room 7-C723 Washington, D.C. 20554

Re: Enforcing Compliance with FCC Rule Section 90.427(b)

Dear Ms. Ellison:

The USMSS is a national organization that represents more than 150 organizations engaged in the planning, sale, installation, and maintenance of Part 90 wireless voice and data communication systems for Industrial/Business and Public Safety entities whose systems are licensed by the Federal Communications Commission (FCC). Our members provide these services to thousands of FCC licensees across the United States for systems ranging in size from mobile-only systems operated within commercial buildings to multistate, interoperable communication systems with hundreds of channels at hundreds of transmitter facilities. The systems that USMSS member organizations service, utilize technologies produced by virtually every equipment manufacturer with authority to distribute FCC-type accepted devices and infrastructure within the United States and its territories.

Recently, our members were a major contributor to the FCC's spectrum efficiency efforts associated with the January 1, 2013 narrowbanding mandate.² It is believed that USMSS members were responsible for a significant percentage of the system upgrades and programming needed to comply with the narrowbanding spectrum efficiency deadline.

¹ The USMSS works closely with the Enterprise Wireless Alliance (EWA), which provides spectrum solutions, regulatory advocacy, interference mitigation and resolution, educational, and related spectrum management services to the USMSS membership.

² See FCC WT Docket No. 99-87.

The narrowbanding initiative has made the USMSS membership particularly mindful of FCC Rule Section 90.427(b), which states that "[E]xcept for frequencies used in accordance with § 90.417, no person shall program into a transmitter frequencies for which the licensee using the transmitter is not authorized." We have advised our members that their employees, particularly their radio technicians and system installers, may service a system and associated units that are utilizing non-compliant wideband (25 kHz) channels, but they may not add new 25 kHz frequencies to that customer's system unless the licensee has received an extension of the narrowband deadline. Moreover, and consistent with the FCC's *Public Notice*³, the USMSS has informed its members that "[I]t is in all parties' best interests, however, for vendors and technicians to assist licensees in complying with the rules by informing customers that the equipment may not be operated in wideband mode after January 1, 2013, without an applicable waiver or extension."

Unfortunately, not all of the entities that service Part 90 wireless equipment comply with FCC Rule Section 90.427(b). It is not uncommon for one of our members to advise a customer that it is prohibited from adding unlicensed frequencies to a system, including new wideband frequencies, only to have the customer secure programming assistance from an organization that chooses to ignore FCC Rule Section 90.427 (b).

We understand from EWA that the Enforcement Bureau will soon be appointing a single point-of-contact to assist licensees with narrowbanding issues. However, while that initiative is one means of promoting narrowbanding compliance, other Enforcement Bureau support will be needed. In particular, USMSS members should not be at a competitive disadvantage because they adhere to FCC requirements. Thus, it would be helpful for the Bureau to establish a simple process for parties to follow when they wish to report to the FCC violations of Rule Section 90.427(b), including an explanation of the information the Enforcement Bureau needs to initiate an investigation of such complaints. It is our belief that even a small number of well-publicized enforcement actions for Section 90.427(b) violations would send a powerful message to this industry. We understand that the Enforcement Bureau's resources are limited, but the spectrum efficiency benefits that would accrue to Industrial/Business and Public Safety licensees by encouraging responsible behavior on the part of those that service their equipment, would be significant.

_

³ See DA 12-1914, released November 30, 2012.

We look forward to hearing from the Enforcement Bureau, and would be pleased to discuss this matter further with you or other staff at the Bureau's convenience. Your assistance is appreciated.

Sincerely,

/s/ William Dow

William Dow Executive Director 7600 Starling Drive Schereville, Indiana 46375 (219) 808-6585 billdow@usmss.org

cc: Mark E. Crosby Enterprise Wireless Alliance